

## Bachus Statement During Derivatives Hearing

Congressman Spencer Bachus, the top Republican on the Financial Services Committee, made the following statement today during the Full Committee hearing entitled "Reform of the Over-the-Counter Derivative Market: Limiting Risk and Ensuring Fairness."

"Good morning, and thank you Mr. Chairman for convening today's hearing to examine legislative proposals to regulate the over-the-counter derivatives markets.

"Mr. Chairman, derivatives are an essential tool used by countless American companies to help them manage risks associated with doing business both at home and abroad. Derivatives allow companies to hedge against risk, deploy capital effectively, lower costs, and offer protection against fluctuating prices. Congress must take steps to ensure increased transparency and enhanced oversight of this market. However, any new regulation should not hamper the ability of businesses to control costs, manage risks, compete in the global marketplace, and create jobs.

"Last Friday, Chairman Frank released draft derivatives legislation which represents a significant improvement over the proposal that the Obama Administration submitted to Congress in August. The Chairman's draft wisely omits provisions from the Administration's proposal which would have severely restricted access to the derivatives marketplace, and had the effect of magnifying - rather than mitigating - systemic risk. However, while the Chairman should be commended for addressing several of the serious flaws in the Administration's approach, his bill raises a number of issues that require this Committee's careful attention.

"For example, the Chairman's discussion draft would still require that some over-the-counter (OTC) products be shifted onto venues like clearinghouses and exchanges. The bill also calls on the regulators to classify some actors in the derivatives marketplace as "major swap participants." This vague classification could force thousands of companies to divert hundreds of millions of dollars of capital away from business investment for use as cash collateral. It seems counterintuitive during a recession, with unemployment approaching ten percent, to leave companies exposed to greater risk, raise their cost of capital, and make economic recovery more difficult to achieve.

"Another potentially troublesome provision of the discussion draft provides regulators with the authority to prohibit certain swap transactions. Restrictions on credit default swap contracts limit the ability of investors to appropriately calculate risk as it has become apparent that CDS spreads are often a more accurate reflection of credit risk than credit ratings. There is nothing inherently wrong with credit default swaps. It is when they are abused as in the case of subprime mortgage securities which were improperly rated and underwritten that problems arise.

"Mr. Chairman, as we move forward with regulatory reform proposals we should make every effort to strike the right balance between maintaining market stability and preserving useful innovations in the U.S. financial services industry. While the government certainly has a role in policing the derivatives market place, it must be noted that there are private sector initiatives already underway to clear standardized derivative contracts and establish trade repositories that will furnish the information regulators and investors need to make informed judgments about potential systemic risk and counterparty exposures. Legislation in this area should seek to facilitate and, where appropriate, codify these market-based solutions, while not subjecting U.S. companies that operate far from Wall Street to damaging new regulatory burdens."